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VIRGINIA LAW REGISTER.

EDITED BY GEORGE BRYAN.

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The Governor of Pennsylvania has recently approved what is known as the Grady-Salus Libel Bill, and has thereby created as furious a storm of protest from the newspapers of the state as if a bill had been passed prescribing their subscription or advertising rates. The protest is naturally more strenuous from the intra-state journals, but there is a chorus of sympathy from those outside Pennsylvania, who look upon a possibly similar future.

The Pennsylvania Libel Act.

Briefly, the bill requires that every newspaper published in Pennsylvania, except those of weekly issue, print in a conspicuous place in every issue the names of the owners, proprietors or publishers and the managing editors of the same. A violation of the act is made a misdemeanor, subject to a fine of not less than \$500 nor more than \$1,000.

Referring to an action brought the bill states:

"If it shall be shown that the publication complained of resulted from negligence on the part of the owner, proprietor, manager or editor in the ascertainment of the facts, or in the publication thereof, compensatory damages may be recovered for injuries to business and reputation resulting from such publication as well as damages for the physical and mental suffering endured by the injured party or parties, and whenever in any such action it shall be shown that the matter complained of is libelous and that such libelous matter has been given special prominence by the use of pictures, cartoons, head lines, displayed type or any other matter calculated to specially attract attention, the jury shall have the right to award punitive damages against the defendant or defendants."

To our mind, the spirit of the act is excellent. Governor Pennypacker is a jurist of renown in Pennsylvania, and in the thirty days allotted him in which to dispose of the bill, it can not be doubted that he brought to its consideration the careful examination and weighing of the merits which characterized his judicial opinions, and for which he was so lauded by the press in the campaign resulting in his election. The act in question involved no financial

or speculative elements. There must have been some demand for a measure of this sort. Upon what, then, was it predicated?

There is a general idea current among the laity that a man has a right to lie down at night—nay, has even the right to offer himself as a candidate for public office—without awaking in either case to find a hue and cry at his door, and all because in this alleged liberty-loving country of ours, he has asserted an opinion or announced his willingness to serve his countymen as their sheriff for the ensuing term. This idea, expressed thus generally, has been the law of England and of this country for centuries. But because one of the states of the Union elects to facilitate the execution of the law by compelling the responsible party to publish his name in his newspaper, and do what men do in their letters to men, sign their names to what they write, and because again it declares that in certain cases of a peculiarly outrageous libel or lampooning, the jury shall have a right to award punitive damages, the knell of our liberties has been sounded, and the editorial Richard can never in Pennsylvania be quite himself again.

The situation, as we see it, is this: The pendulum has swung back and the people of Pennsylvania, in addition to their admitted right, have determined to have a summary and an efficacious remedy. As the law stands now, a citizen of Pennsylvania, whose words and deeds are editorially distorted or attributed to base motives, and cartoons of himself and his supporters, born of the most malicious artistic ingenuity which ample means can provide, will feel that, with the common law supplemented by a statute designed only to oil the machinery of the common law, he will stand some chance of vindication, of leaving on record in a court of justice and in the newspapers reporting its judgments, the fact that a statement or picture can not be published merely because it is funny, and that the law will hold the members of the fourth estate to the same liability as others.

Governor Pennypacker appends to the approved bill a memorandum from which we make the following extracts:

“Within a few days in a leading article on the first page of a daily journal, under large headlines, upon a rumor of unknown source as to the name of a suggested appointee to the position of prothonotary of the supreme court, when no appointment had been made and no utterance, official or otherwise, had emanated from any member of that court, that high tribunal was subjected to a covert assault under the words, ‘Machine after control of the Supreme Court.’

"A mayor of our chief city has been called a 'traitor;' a senator of the United States has been denounced as a 'yokel with a sodden brain,' and within the last quarter of a century two Presidents of the United States have been murdered, and in each instance the cause was easily traceable to inflammatory and careless newspaper utterances.

"A cartoon in a daily journal of May 2, defines the question with entire precision. An ugly little dwarf, representing the governor of the commonwealth, stands on a crude stool.

"The stool is subordinate to and placed alongside a huge printing press, with wheels as large as those of an ox team, and all are so arranged as to give the idea that when the press starts the stool and its occupant will be thrown to the ground. Put into words, the cartoon asserts to the world that the press is above the law and greater in strength than the government.

"No self-respecting people will permit such an attitude to be long maintained. In England a century ago the offender would have been drawn and quartered and his head stuck upon a pole without the gates. In America, to-day this is the kind of arrogance which goeth before a fall."

We give considerable space in this number to the decision of the United States' Supreme Court in the Alabama franchise case. As a question of cold statutory construction, it seems to us that the

**Giles v. Harris
and Others,
Registrars.**

dissenting opinion of Mr. Justice Harlan is more conclusive than that of the court as a demonstration of the problem of jurisdiction, though Mr. Justice Holmes' view of the inability of a court of equity to enforce a political right, referring it rather to Congress and the Executive, meets fairly and fully the merits of the question from the standpoint of procedure. Just where the line of demarcation will be drawn when a case presenting the elements of *Giles v. Harris*, combined with those of *Wiley v. Sinkler*, and *Swafford v. Templeton*, both cited by Mr. Justice Harlan, no careful lawyer will be quick to forecast.

The business world is to be congratulated at the opinion of the Court of Appeals of Virginia in *Millhiser Manufacturing Company v. Gallego Mills Manufacturing Company*, published in this number.

**The Supply Lien
and the Ware-
house Receipt.**

We have anticipated its production in its due order because of its extreme importance. We especially rejoice that we have an unanimous court behind the opinion. The question itself rests upon one of the great foundation principles of commercial law, and right squarely does our Supreme Court align itself with the

early and the leading authorities. What would have been the result of an opposite ruling, it is difficult to imagine, but certainly it would have made junk of all warehouse receipts, and would have turned all the statutes so carefully drawn to give them life, and to the receipt itself the nature of *money*, into a dead letter.

The decision would now seem to make it a simple, logic and direct step from the position of the court, as expressed in its last two pages, to the approval by the Senate of Virginia of House Bill 189, at present set down for final hearing in that body on November 17, 1903. The decision goes as far as the record permits it to go—it declares that the supply lien is inferior to the warehouse receipt; but it certainly approves, by inference, the theory of the pending bill, namely, that the secret lien given by the present statute to a few preferred creditors is just as obnoxious to the principles of good conscience and fair trade.